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AUSTRALIA

In re Application of:	:	
SILVERBROOK, Kia	:	
U.S. Application No.: 10/510,154	:	DECISION ON PETITION TO
PCT No.: PCT/AU02/01169	:	WITHDRAW HOLDING OF
International Filing Date: 29 August 2002	:	ABANDONMENT
Priority Date: 12 April 2002	:	(37 CFR 1.181)
Attorney's Docket No.: YU174US	:	
For: DISCRETE AIR AND NOZZLE CHAMBERS	:	
IN A PRINTHEAD FOR AN INKJET	:	
PRINTHEAD	:	

This decision is issued in response to applicant's petition to withdraw the holding of abandonment, filed 27 June 2005, treated herein under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On 29 August 2002, applicant filed international application number PCT/AU02/01169. The international application claimed a priority date of 12 April 2002 and designated the United States. On 23 October 2003, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). Payment of the full basic national fee was required before the expiration of thirty months from the priority date, i.e., 12 October 2004.

On 05 October 2004, applicant filed a transmittal letter requesting entry into the national stage in the United States. The transmittal letter was accompanied by, among other materials, a check in the amount of \$1,080.

On 24 May 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to provide the full U.S. basic national fee before the expiration of the thirty month deadline.

On 27 June 2005, applicant filed the petition considered herein. The petition seeks withdrawal of the holding of abandonment based on applicant's inclusion of the \$1,080 fee payment in the 05 October 2004 submission.

### DISCUSSION

The materials initiating the present national stage application were filed on 05 October 2004. These materials included a check in the amount of \$1,080 (\$1,040 for the U.S. basic national fee and \$40 as the fee for recording an assignment). However, as of the filing date of the national stage papers, the applicable U.S. basic national fee was \$1,110. Applicant's fee payment was therefore not sufficient to meet the full U.S. basic national fee.

Pursuant to 37 CFR 1.495(h), an international application becomes abandoned with respect to the U.S. if the full basic national fee is not submitted prior to the expiration of thirty months from the priority date. Here, because applicant's \$1,080 fee payment did not include payment of the full \$1,110 U.S. basic national fee, the application was abandoned as of midnight on 12 October 2004.

### CONCLUSION

Based on the above, applicant's petition for withdrawal of the holding of abandonment under 37 CFR 1.181 is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision.

In the alternative, applicant might consider (if factually appropriate) filing a petition for revival of an international application abandoned unintentionally, pursuant to 37 CFR 1.137(b).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



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